



IN THE MATTER OF:

Complainant,

Respondent.

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RECOMMENDED ORDER AND DECISION

Findings of Fact

1. On January 10, 2000, Complainant filed a Charge of Discrimination on her own behalf alleging that she was the victim of sexual harassment. The parties executed agreements to extend the time for the Department to investigate the Charge.

2. On June 13, 2001, Respondent notified the Department of Human Rights that he had filed a Bankruptcy petition.

3. On June 25, 2001, the Department filed on behalf of Complainant a Complaint alleging that Complainant was the victim of sexual harassment. In the Complaint the Department acknowledged that the Respondent was undergoing bankruptcy proceedings, but asserted that it was not bound by the automatic stay provisions of the Bankruptcy Code since the Complaint was filed pursuant to the Commission's decision in Kehoe and Paralex Corporation, 33 Ill. HRC Rep. 40 (1987).

4. Nothing happened on the Complaint until September 5, 2002, when the Commission attempted to serve Complainant with a copy of the Complaint by certified mail. Complainant's copy of the Complaint was returned as undeliverable.

5. On September 20, 2002, Respondent's counsel filed a copy of a Bankruptcy Court Order indicating that Respondent had received a discharge of his debts on January 17, 2002.

6. On September 24, 2002, an Order was entered which acknowledged that Complainant had not been served with a copy of the Complaint, and that a discharge order had been entered by the Bankruptcy Court on Respondent's behalf. The Order also indicated that the Commission would attempt to contact Complainant through regular mail, but that if Complainant's copy of the order was returned by the U.S. Postal Service as being undeliverable, then the Commission would enter an Order recommending that the case be dismissed.

7. Complainant's copy of the September 24, 2002 Order was returned to the Commission's office with the notation by the U.S. Postal Service that the letter was undeliverable.

8. There has been no contact in this proceeding by Complainant.

Conclusions of Law

1. The Commission's Procedural Rules provide that the Commission shall cause a Complaint "to be served on all Parties either personally or by depositing copies in the mail, properly addressed and posted, for certified delivery." 56 Ill. Admin. Code, Ch. XI, §5300.620.

2. The Commission lacks jurisdiction over the Complainant due to the lack of service of the Complaint.

3. Without some indication that the Complainant has been notified of this action by means of service, the Commission is unable to proceed.

Determination

This matter must be dismissed due to lack of personal jurisdiction over the Complainant since the Commission has been unable to serve Complainant with a copy of the Complaint.

Discussion

Section 5300.620 of the Commission's Procedural Rules (56 Ill. Admin. Code, Ch. XI, §5300.620) requires that each party be served with a copy of the Complaint either personally or by certified mail. Unfortunately, Complainant has not been served with a copy of the Complaint that was sent to the address that she provided to the Department of Human Rights, and the Commission has not otherwise obtained personal jurisdiction over the Complainant to proceed with this case. (See, for example, **House and Help at Home Inc.**, ___ Ill. HRC Rep. ___ (1998CF2830, June 12, 2000).) While the record shows that this matter has been delayed due to the Department's investigation, as well as Respondent's Bankruptcy proceedings, Complainant should have kept in contact with either the Department or the Commission if she had any change in address. Moreover, the matter must be dismissed because, without personal jurisdiction, the Commission is unable to rule on the merits of the Complaint.

Recommendation

Accordingly, I recommend that the Complaint and the underlying Charge of Discrimination of Ruthan Jones be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL R. ROBINSON
Administrative Law Judge
Administrative Law Section

ENTERED THE 10TH DAY OF MARCH, 2003